

# **APPENDIX A**

### **Process for Technical Committee**

1. Google shall disclose to Epic the technology and processes it is using to implement the injunction. The cadence of those disclosures and the level of detail to be disclosed shall be determined by the Technical Committee, applying the principle that disclosure needs to be sufficiently frequent and in sufficient detail to enable Epic to identify and raise any disputes or issues on a timeframe that will not jeopardize timely compliance with the requirements of the injunction.
2. Google and Epic shall meet and confer on any disputes or issues relating to the technology and processes for implementing the injunction. Within seven days of the conclusion of the meet and confer process, any unresolved dispute or issue will be referred to the Technical Committee through a joint submission describing the issues in dispute. The joint submission will include a brief summary of each side's position not to exceed four pages per side. When there is a genuine need, including but not limited to disputes arising under the last sentence of ¶ 12 of the Injunction, either party may declare an "Urgent Dispute". In the event of an Urgent Dispute, the default submission schedule shall be 48 hours, but either in response to a party's request or on its own initiative, the Technical Committee may set a shorter or longer schedule.
3. After reviewing a submission, the Technical Committee by majority vote may request additional information from either or both parties. The request shall be served on counsel for both parties. The party receiving the request shall respond within two business days, subject to reasonable requests for extension of time to the Committee, which shall be decided by majority vote. The party receiving the request may respond in writing or by designating a person knowledgeable on the topic at issue to appear before the Committee, at the discretion of the party receiving the request. The Committee may by majority vote also request specific documentation, such as data or particular source code, that the Committee believes relevant to resolving the dispute or issue. Any written responses or other materials will be served on the other party at the time they are transmitted to the Committee. If the party receiving the request intends to respond by designating a person to appear before the Committee, that party must provide the other party, in writing or orally, with reasonable advance notice, of the identity of the person that will appear before the Committee and a short description of the content of the responses that person will provide to the Committee's requests. Regardless of the manner in which responsive information is provided to the Committee, the other party may, on a schedule determined by the Committee, respond in writing or by designating a person knowledgeable on the topic to appear before the Committee, and such appearance will be subject to the procedures laid out above. All appearances will be held in person or by video teleconference with counsel for both parties present. The appearances will be transcribed. The parties will arrange for transcription services of any aforementioned meetings with the Committee and will split the costs of such transcription. The Committee may, by majority vote, request additional information after reviewing the party's response.

4. The Technical Committee may request to hear from counsel for the parties as it sees fit. Counsel for both parties shall be present for any such in-person meeting or videoconference, which will be transcribed.

Proposed Alternatives for Paragraph 5	
<p>Epic Proposes:</p> <p>The Technical Committee member designated by Google may have independent communications with Google and its representatives, and the Committee member designated by Epic may have independent communications with Epic and its representatives. Otherwise, the members of the Technical Committee will not communicate with the parties or their counsel about issues in dispute other than through the channels described in paragraphs 3 and 4 above. The Committee and its members will not request information from non-parties and will not discuss this matter with anyone except the other Committee members, counsel, and the parties through the channels described above.</p>	<p>Google Proposes:</p> <p>The Technical Committee and its members will not request information from non-parties and will not discuss this matter with anyone except the other Committee members, counsel, and the parties through the channels described above. The members of the Technical Committee will not communicate with the parties or their counsel about issues in dispute other than through the channels described in paragraphs 3 and 4 above.</p>

6. Promptly after receiving all requested information from the parties, the Technical Committee will inform the parties of its decision either in writing to all counsel or orally in a transcribed videoconference at the Committee's discretion. In the case of an Urgent Dispute, the Committee will endeavor to provide its decision within 24 hours of complete submission, but the Committee may determine in its discretion that a longer timeline is appropriate.

7. The Technical Committee is not required to issue an opinion or report, but it may provide written instructions on its implementation decisions (each a "Ruling"). If the Technical Committee's Ruling is not unanimous, then it shall advise the parties of the position(s) of each Committee member. The Technical Committee need not wait until it has resolved all disputed issues before advising the parties of its Rulings—that is, the Committee may decide disputed issues and provide Rulings pertaining to such issues on a rolling basis. If either party intends to bring a Ruling of the Technical Committee for review by the Court, then at the party's request, the Technical Committee shall provide, in writing or in a transcribed video conference, a brief explanation of the basis for its Ruling (and, if applicable, for any dissenting vote).

8. The members of the Technical Committee will discuss issues in dispute only when all three members are present. The Committee may meet as often as it sees fit,

either in person or by phone call or videoconference. Any written communications among the members of the Technical Committee regarding an issue in dispute shall include all three members. The Technical Committee's discussions are to be shared with the parties only as reflected in the paragraphs herein, and are not to be shared *ex parte*.

9. Either side may appeal a Ruling of the Technical Committee to the district court within ten days of the Technical Committee's Ruling. Unless a different procedure is established by the Court, such an appeal shall be presented by filing with the Court a joint statement setting forth each side's position, which shall not exceed three pages per side. The joint statement will include the Technical Committee's Ruling as an exhibit. In the case of an Urgent Dispute, the appealing party may make a unilateral submission not to exceed three pages. The other party may submit a response of no more than three pages, which shall be due the same number of days after the appealing party's submission as elapsed between the Technical Committee's Ruling and the filing of the appeal (but no fewer than one full day).

10. The terms of the protective order will govern the designation of submissions to the Technical Committee.

11. For purposes of the Committee members' background and orientation to the issues that may be raised to the Committee, the Committee members may review submissions made by either party to the Court concerning the remedies provisions in the Court's injunction, subject to the Protective Order. The parties will ensure that Technical Committee members have access to such filings.

12. Should a member of the Committee become unable to continue serving for any reason, that member shall provide the parties and the other Committee members with at least 30 days notice. If the resigning Committee member was selected by one of the parties, then that party shall select a replacement. If the resigning Committee member was selected by the other two members, then the two remaining members shall select a replacement using the same process that was used to pick the resigning member originally.

13. The Technical Committee may designate and hire an administrative staffer, subject to the approval of the parties. Costs for administrative staff will be split between the parties in equal shares.